

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

DEBBIE BROWN,

§

Plaintiff,

§

CASE NO. 6:19-cv-00296-JDK-KNM

v.

§

WALMART #6467, et al.,

§

Defendants.

§

§

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636. On October 23, 2020, Judge Mitchell issued a Report and Recommendation (Docket No. 29) recommending that Defendants' Rule 12(b)(6) Motion to Dismiss (Docket No. 24) and Supplemental Briefing (Docket No. 28) be granted. Plaintiff, proceeding pro se, filed written objections (Docket No. 30) on November 6, 2020.

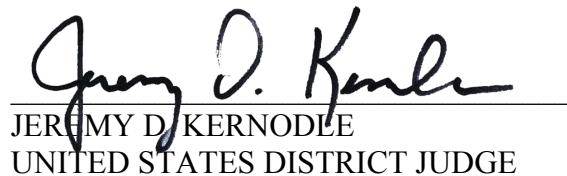
In the motion to dismiss and supplemental briefing, Defendants assert that Plaintiff did not timely file this lawsuit within the statutory ninety-day time period provided in 28 U.S.C. § 2000e-5(f)(1). Plaintiff did not file a response to the motion or supplemental briefing. In the Report and Recommendation, Judge Mitchell concluded that Plaintiff failed to state a claim upon which relief may be granted because the lawsuit was not timely filed. Plaintiff filed written objections asserting that she was discriminated against due to her race, retaliated against after filing a complaint, and harassed due to a disability. Plaintiff's written objections do not address the timeliness of the filing of this lawsuit.

The Court reviews objected-to portions of the Report and Recommendation de novo. FED. R. CIV. P. 72; 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of

those portions of the report or specified proposed finding and recommendation to which objection is made.”). The Court conducting a de novo review examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), superseded on other grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Having made a de novo review of the written objections filed by Plaintiff in response to the Report and Recommendation, the Court concludes that the findings and conclusions of the Magistrate Judge are correct and the objections are without merit. Plaintiff did not file her lawsuit within the statutory ninety-day period for filing suit.

Accordingly, it is hereby **ORDERED** that Plaintiff’s objections are **OVERRULED** and the Magistrate Judge’s Report (Docket No. 29) is **ADOPTED**. Defendants’ Rule 12(b)(6) Motion to Dismiss (Docket No. 24) and Supplemental Briefing (Docket No. 28) are **GRANTED**. This civil action is **DISMISSED WITH PREJUDICE**. All pending motions are **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this **17th** day of **November, 2020**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE